



To: ann.johnston@mail.house.gov, Charles.Isom@mail.house.gov,
Cc:
Bcc:
Subject: Congressman's Inquiry on behalf of constituent Cheryl Weston

Good morning,

Thank you for the letter dated July 6 on behalf of your constituent Cheryl Weston. Ms. Weston had also submitted the same letter directly to EPA and we have provided her a response. For your convenience I have attached your letter dated July 6 and the response that we provided to Ms. Weston in early July.

If you have any additional questions please don't hesitate to call or email me.

Thanks - Sarah



Lee Terry Inquiry Omaha lead contract.pdfRep Terry-Cheryl Weston.pdf



Sarah Hatch
Congressional and State Government Liaison

Office of the Regional Administrator
US Environmental Protection Agency
Region 7
901 N. 5th St., Kansas City, KS 66101
(913) 551-7199/cell (816) 377-0567
Hatch.Sarah@epa.gov



To: ann.johnston@mail.house.gov, Charles.Isom@mail.house.gov,
Cc:
Bcc:
Subject: Congressman's Inquiry on behalf of constituent Cheryl Weston

Good morning,

Thank you for the letter dated July 6 on behalf of your constituent Cheryl Weston. Ms. Weston had also submitted the same letter directly to EPA and we have provided her a response. For your convenience I have attached your letter dated July 6 and the response that we provided to Ms. Weston in early July.

If you have any additional questions please don't hesitate to call or email me.

Thanks - Sarah



Lee Terry inquiry Omaha lead contract.pdfRep Terry-Cheryl Weston.pdf

Sarah Hatch
Congressional and State Government Liaison

Office of the Regional Administrator
US Environmental Protection Agency
Region 7
901 N. 5th St., Kansas City, KS 66101
(913) 551-7199/cell (816) 377-0567
Hatch.Sarah@epa.gov

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE CLERK
1000 OAKLEY BUILDING
WASHINGTON, DC 20540
205-405-1100
www.house.gov/clerkofh



COMMITTEE
ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES
1000 OAKLEY BUILDING
WASHINGTON, DC 20540
205-405-1100
www.house.gov/energycommerce

Lee Terry
Congress of the United States
House of Representatives
2nd District Nebraska

July 6, 2012

Lisa P. Jackson, Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Sent via EMAIL

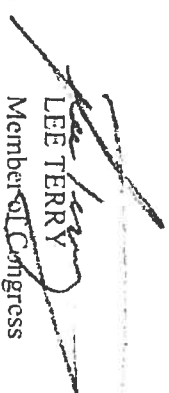
Dear Ms. Jackson:

Enclosed is a copy of correspondence I have received from my constituent, Cheryl Weston, regarding EPA solicitations – Small Business Set-Aside Contract, SOL-R7-12-00005, and 8(a) Set-Aside Contract, SOL-R7-12-00016. I believe you will find the letter self-explanatory.

I would appreciate it if you would review the concerns documented in the enclosed letter and provide me with any information that may be helpful to my constituent. Please direct your response to my office at 11717 Burt Street, Suite 106, Omaha, NE 68154. Please send your response to the attention of my staff member, Felicia Rogers.

I am grateful for any assistance you may be able to provide in this matter.

Sincerely,


LEE TERRY
Member of Congress
11717 Burt Street, Suite 106
Omaha, NE 68154
Phone: 402-397-9944



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

OFFICE OF
REGIONAL ADMINISTRATOR

JUL 05 2012

Ms. Cheryl Weston
Citizens for Fairness and Justice
P.O. Box 8691
Omaha, Nebraska 68108-0691

Dear Ms. Weston:

Thank you for your letter dated June 12, 2012, to Administrator Jackson regarding solicitations SOL-R7-12-00005 and SOL-R7-12-00016. We appreciate your interest in ensuring the validity, integrity and accountability of our procurement process. The allegations your letter brought to my attention have been thoroughly investigated. At this time, it should be noted that no contract awards have been made as a result of the two subject solicitations for work at the Omaha Lead Site.

As stated in your letter, and as allowed by the Federal Acquisition Regulation, two separate bid opening times were scheduled for the subject solicitations. Having separate and distinct opening times meant that the time for receipt of bids was different for each solicitation. FAR 14.302(a) states that a bid that is submitted not later than the exact time specified for the bid opening is considered timely and eligible for award. Consequently, as long as a bid is received by the time specified for bid opening, that bid must be considered timely and eligible for award.

The Environmental Protection Agency is currently performing a thorough review of each low bidder's responsiveness to solicitation requirements as well as a review to ensure they are indeed responsible contractors relative to the activities to be performed under the respective solicitations.

In accordance with the FAR, awards will not be made on either of the two subject solicitations until such time that the contracting officer has determined the responsiveness and responsibility of the low bidder. The FAR requires that if and when the contracting officer questions a bidder's responsibility, the matter is referred to the Small Business Administration for a final determination of non-responsibility or the issuance of a Certificate of Competency. If the SBA issues a Certificate of Competency, the contracting officer may not overturn the decision and must make award to that contractor.

In closing, please be advised that all processes are being thoroughly reviewed and awards compliant with all applicable regulations will be made on these solicitations as well as on all other solicitations issued by this Agency. If you have questions, please contact Ms. Lee Thomas at 913-551-7739 (Thomas.LeeA@epa.gov).

Sincerely,

Karl Brooks



Message Information

Date 05/13/2012 10:32 AM
From cwestsuccess@aol.com
To Lisa Jackson DCUSEPA/US@EPA
cc Perclasp@epa.gov, r@actiononline.ric.epa.gov,
Brook Carl@epa.gov, cwestsuccess@aol.com
Subject SOL-R7-12-00016 and SOL-R7-12-00005

Message Body

Dear Administrator Jackson

Please find attached a copy of our letter being forwarded to your attention via United States Postal services regarding our concerns with the latest Ongha Lead Site Solicitations from Region VII US Environmental Protection Agency.

Respectfully,

Cheryl Weston, President



Citizens for Fairness and Justice Letter to Administrator Lisa Jackson.pdf

OEX Processing Information

Processed Date
Processed by
FO Office
Category

Message Content

RECEIVED
JUN 14 2012
OFFICE OF THE
EXECUTIVE SECRETARIAT

June 12, 2012

CERTIFIED MAIL

Lisa P. Jackson, Administrator
US Environmental Protection Agency (EPA)
USEPA Ariel Rios Building (AR)
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

RE: US Environmental Protection Agency (EPA) Small-Business Set-Aside Contract
(SOL-R7-12-00005) Omaha Lead Site

US Environmental Protection Agency EPA 8(a) Set-Aside Contract
(SOL-R7-12-00016) Omaha Lead Site

Dear Administrator Jackson:

We, the Citizens for Fairness and Justice have several concerns that we would like your assistance with in examining the validity, the integrity and accountability of your governmental agency's regarding the above referenced solicitation.

The Government Accountability Office (GAO) unmistakably states: GAO exist to support the Congress in meeting its Constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people, by Accountability, Integrity and Reliability.

On May 08, 2012 the US Environmental Protection Agency (EPA) Region VII held a public bid opening in order to accept qualified responses to the EPA solicitation for remediation services for the Omaha Lead Site. The solicitations were issued under two solicitation numbers for the purpose (only) due to the type of set-aside contract differentiation of the contracts, NOT the Scope of Work (SOW) which was identical. Not only did EPA Region VII design the SOW identically, but EPA used the same bid sheet for both contracts; The Small Business Set-Aside and the 8(a) Set-Aside.

The public bid opening for the Small Business Set-Aside was held at 1:00 PM on May 8, 2012. The bids were opened and the numbers were read aloud for all in attendance to hear and to write down. The bid opening for the 8(a) Set-Aside contract was held at 2:30 PM on the same day following the earlier process of opening the bid and reading the numbers. It is this arrangement (different bid openings within hours apart on the same day for the same SOW) that led to the mendacious activity by Coastal Environmental Group. The type of bid opening arrangement that occurred on May 8, 2012 had never taken place before and is believe to be instrumental in the deceit and integrity of the public open bid process.

There were five 8(a) firms that bid both 8(a) and Small Business contracts. Four of the five firms that submitted bids on both contracts, submitted their bids with the same numbers. Only Coastal changed their bid numbers during the time of the opening of the Small Business Set-Aside Contract while awaiting the bid opening of the 8(a) Set-Aside Contract. Eagle, MFH, Sealand Environmental all Fed-X their bids and both contracts had the same numbers. Prudent Technologies Inc who was present in the audience submitted both of their bids with the same numbers and although they had an opportunity to change their bids, they took the high road and remain unchanged.

TYPE OF CONTRACT:

Small Business Set Aside

TYPE OF CONTRACT:

8(a) Set Aside

Order of Bid Prices (lowest to highest)	Firm	Bid Amount	Order of Bid Prices (lowest to highest)	Firm	Bid Amount
1	Lawson	22,630,465*	1	PK Management	23,897,255
2	Anderson Construction	24,143,280	2	Coastal	26,774,907*
3	Eagle	26,792,920	3	Eagle	26,792,920
4	ER	27,063,900	4	Prudent	27,704,300
5	Shekar Engineering	27,616,920	5	MFH	32,614,200
6	Prudent	27,704,300	6	Tantera Environmental	42,869,389
7	Coastal	29,175,737			
8	MFH	33,194,000			
9	Sealand Environmental	36,957,400			

*Firm does not meet EPA's self imposed solicitation's strict technical capability requirements.

*Numbers changed from their Small Business Bid by a decrease of \$2,400,830.

During the time between to the bid openings, Coastal willfully changed their bid from the \$29,175, 737 to \$26,774,907. This action compromised the integrity of the bidding process. Thereby, Coastal's bid should be deemed defective and should be disqualified.

Our second concern:

According to FAR, Subpart 14.3—Submission of Bids - 14.301 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.

Both solicitations (which were written identical) required very specific and strict technical capabilities in order to be considered as responsive and responsible including past performance.

Based on our review (research of websites, other environmental contractors, and bidders) it does not appear that many of the bidders met the high standards of the EPA solicitation.

Under the 8(a) Set-Aside, PK Management emerged as the low bidder. However, their website indicates that PK Management is primarily a property management company. It is very questionable how they (PK) would/could meet the requirements of a Prime Contractor, have the experience of remediating 100 residential soil properties in an urban setting in the last three (3) years. In addition, the solicitation stated the proposed Project Manager is required to have a Project Management Certificate documenting a course beyond the practical experience; how would a Property Management Project Manager possess such? The instructions were very clear that the Prime Contractor needed to be able to meet this requirement, not their sub-contractor.

Administrator Lisa Jackson
• June 12, 2012
Page 3

Although Eagle Environmental, the third low bidder is identified as an "environmental" firm, but just as PK Management does not appear to meet the firm requirements it does not appear that Eagle Environmental meets the past three year "soil remediation in an urban environment" requirement.

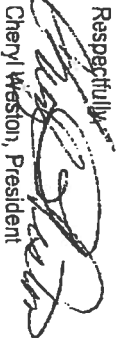
Lastly, it is suspicious as to Coastal meeting the project management certificate documentation course requirement due to the fact that Coastal does not even have a "Project Manager" on their current Omaha Lead Site (OLS) project; they have an interim Project Manager. Also, EPA Region VII is very much aware of Coastal's history (past performance) of non-compliance with various labor and immigration laws, discriminatory hiring practices, employee grievances (failure to pay appropriate wages) and a significant number of community complaints. With Region VII having documented knowledge of Coastal's past performance record, Citizens for Fairness and Justice are asking "why was Coastal even allowed to bid on these final Omaha Lead Site contracts?"

Under the Small Business Set-Aside, Lawson emerged as the low bidder. However, as the SOW stated (1) *Prime Contractor* must; have the experience of remediating 100 residential soil properties in an urban setting in the last three years; (2) *Prime Contractor* must be able to demonstrate their experience with three projects of similar size and significance; (3) *Project Manager* is required to have project management certification documenting specialized project management training beyond practical experience (4) *Project Manager* should have a minimum of 3 years of field experience with residential remediation of cleanup activities (5) *Health and Safety Operations Manager* must have at least three years of practical experience in performing Health and Safety Operation on a Superfund Site in an urban setting (6) *Site Coordination Manager* must have a minimum of three years of experience with residential remediation or cleanup actions. How does Lawson Environmental match up with these outlined requirements?

The EPA was very specific in their solicitation requirements and we feel that the (EPA Region VII) should be held accountable to their requirements. As possible remedies to this situation, (1) the firms that did not substantially (responsible and responsive) meet the requirements and uphold the integrity of the bidding process, their bid should be rejected (2) the contracts should be rebid and the public opening of the bids should be held simultaneously (3) Contractors with poor past performance records should not be allowed to bid on the these final contracts.

We are requesting your immediate assistance in having the EPA Region VII re-visit this issue (Omaha Lead Site Contracts) before allowing Region VII to make this award.

Respectfully,



Cheryl Weston, President
Citizens for Fairness and Justice
PO Box 8691
Omaha NE 68108-0691

cc: Robert Perciasepe, Deputy Administrator
Karl Brooks, Regional Administrator
Senator Ben Nelson
Senator Mike Johanns
Congressman Lee Terry
Paulaile Frances-Iseltis, Omaha Lead Site Project Manager
Yolanda Nero, EPA Contracting Officer
Marie Noel, EPA Contracting Officer
Lee A. Thomas, Senior Contracting Officer

Mayor Jim Suttle
Omaha World Herald
Liz Dorland, KMTV

